Greenbelt Handbook

for

Assessors of Property

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The Purpose of the Handbook

The purpose of this handbook is to provide assessors' offices with guidance concerning many issues often encountered under the Agricultural, Forest and Open Space Land Act of 1976—the law is commonly known as "greenbelt." The handbook will also help ensure uniformity across all 95 counties in administering the greenbelt program.

Disclaimer

This handbook contains interpretations of law by legal staff with the office of the Comptroller of the Treasury. These interpretations should be considered general advice regarding assessment practices as opposed to binding rulings of the Comptroller of the Treasury, the Division of Property Assessments, or the State Board of Equalization. For ease of understanding, footnotes are used to summarize the legal authority which constitutes the basis for the general guidance provided in this handbook. Since some greenbelt issues will be unique, the outcome may be different in a particular situation. In other words, this handbook is not intended to provide definitive answers to all situations faced by assessors in the daily administration of greenbelt. Also included are policies and procedures of the Division of Property Assessments. Please feel free to contact the Division if you have any questions.

The Purpose of Greenbelt

In 1976, the Tennessee General Assembly ("General Assembly"), "concerned about the threat to open land posed by urbanization and high land taxes,"[1] enacted the Agricultural, Forest and Open Space Land Act of 1976 (hereafter referred to as "Act" or "greenbelt law").[2] The purpose of the Act is to help preserve agricultural, forest, and open space land. This is accomplished by valuing these lands based upon their *present use*—"the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for another purpose"[3]—rather than at their *highest and best use*—"[t]he reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value."[4] When property is valued at its highest and best use, the threat of development can "bring[] about land use conflicts, create[] high costs for public services, contribute[] to increased energy usage, and stimulate[] land speculation."[5] Therefore, without the benefit of present use valuation, landowners would be forced

[1] *Marion Co. v. State Bd. of Equalization*, 710 S.W.2d 521, 522 (Tenn. Ct. App. 1986), *permission to appeal denied* April 21, 1986.
[2] T.C.A. §§ 67-5-1001–1050.
[3] T.C.A. § 67-5-1004(11).
[4] *The Dictionary of Real Estate Appraisal*, 4th Ed., Appraisal Institute at 135.
[5] T.C.A. § 67-5-1002(1).

to sell their land for premature development because taxes would be based on the land's "potential for conversion to another use."[6]

The Act recognizes that property receiving preferential assessment may be converted to a non-qualifying use at a future date. The Act specifically provides that one of its purposes is to prevent the "premature development" of land qualifying for preferential assessment.[7] In many situations, commercial development may actually constitute the highest and best use of the property.[8] Similarly, property may qualify for preferential assessment despite the fact that the property owner periodically sells off lots or intends to convert the use to commercial development at some future date.[9]

The Act was a way for the General Assembly to issue "an invitation to property owners to voluntarily restrict the use of their property for agricultural, forest, or open space purposes".[10] By restricting the property, it is "free from any artificial value attributed to its possible use for development."[11] But, to take advantage of this, an application must be completed and signed by the property owner, approved by the assessor, and recorded with the register of deeds.[12] The recorded application provides notice to the world that this property is receiving favorable tax treatment for assessment purposes.

Since the land is receiving favorable tax treatment, *rollback taxes* will become due if the land is disqualified under the Act.[13] These taxes are a recapture of the difference between the amount of taxes due and the amount that would have been due if the property was assessed at market value.[14] To prevent a county's tax base from being eroded, however, the General Assembly found that "a limit must be placed upon the number of acres that any *one* . . . owner . . . can bring within [the Act]."[15] That limit is 1,500 acres per person per county.[16]

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[6] T.C.A. § 67-5-1002(4).
[7] T.C.A. § 67-5-1003(1).
[8] *See Bunker Hill Road L.P.* (Putnam County, Tax Year 1997, Initial Decision & Order, January 2, 1998) at 4 ("The administrative judge finds it inappropriate to remove a property from greenbelt simply because it is zoned commercially or that commercial development represents its highest and best use.").
[9] *Id. at 4* (". . . [T]he administrative judge [assumes] that many owners of greenbelt property intend to sell it for commercial development at some future time.") *See also Putnam Farm Supply* (Putnam County, Tax Year 1997, Initial Decision & Order, January 2, 1998) at 4-5.
[10] *Marion Co.*, 710 S.W.2d at 523.
[11] *Id*.
[12] *See* T.C.A. §§ 67-5-1005(a)(1), 1006(a)(1), 1007(b)(1), & 1008(b)(1).
[13] T.C.A. § 67-5-1008(d)(1)(A)–(F).
[14] T.C.A. § 67-5-1008(d)(1).
[15] T.C.A. § 67-5-1002(5) (emphasis added).
[16] T.C.A. § 67-5-1003(3).

Agricultural land

§ 1. The definition of *agricultural land*

For land to qualify as agricultural, it must be at least 15 acres, including woodlands and wastelands, and either:

> (1) constitute a *farm unit engaged* in the production or growing of agricultural products; or
> (2) have been farmed by the owner or the owner's parent or spouse for at least 25 years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.[17]

First, land containing at least 15 acres and engaged in farming will qualify as agricultural. To be engaged in farming means the land must be actively farmed in the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products. Land cannot qualify just because an owner *intends* to farm. In other words, the land cannot simply be *held for use*. It must be actively engaged in farming. For example, land not being farmed as of the assessment date (January 1)—or land that will be farmed after the assessment date—cannot qualify for the current tax year.

Here is a general, but not exhaustive, list of the most common farming activities:

- Crops: corn, wheat, cotton, tobacco, soybeans, hay, potatoes.
- Plants: herbs, bushes, grasses, vines, ferns, mosses.
- Animals: cattle, poultry, pigs, sheep, goats.
- Aquaculture: fish, shrimp, oysters.
- Nursery: places where plants are grown.
- Floral products: roses, poppies, irises, lilies, daisies.

Second, land can also qualify as agricultural if it (1) contains at least fifteen acres, (2) has been farmed for twenty-five years, and (3) is used as the owner's residence. This is commonly referred to as the *family-farm provision* (see § 6).

As noted above, for land to qualify as agricultural, it must constitute a "farm unit." Since the term "farm unit" is not defined anywhere in the Act, the assessor must determine whether the claimed farming activity represents the primary purpose for which the property is used or merely

[17] T.C.A. § 67-5-1004(1)(A)(i)–(ii) (emphasis added).

constitutes an incidental or secondary use.[18] In certain instances, a portion of the acreage that previously qualified as agricultural land may cease to qualify due to a change in use.[19]

§ 2. A gross agricultural income is a presumption of an agricultural use

> *Gross agricultural income* is defined as the
>
> > total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs.[20]

If land classified as agricultural produces gross agricultural income averaging at least $1,500 per year over any three-year period, then the assessor may *presume* that a tract of land is agricultural.[21] The assessor may request an owner to provide a Schedule F from the owner's federal income tax return to verify this presumption. However, this presumption is rebuttable.[22] In other words, it is not a requirement that an owner *prove* this income. It is only an aid for the assessor to use. Even if the land does not produce any income, it can still qualify, as long as the land is being actively farmed (see § 1). The following example illustrates when the income presumption may be rebutted:

> An owner has land containing 100 acres. He provides a Schedule F to the assessor proving a gross agricultural income of $1,500 or more per year. With just this information, the assessor can presume an agricultural use for the 100 acres.
>
> But after a review of the property, it is discovered that only 12 acres are being farmed. The other 88 acres are used for family activities such as four-wheeling and picnics. Most of these acres are covered with thistles and weeds. No other cultivation has been made of the land. Although the owner is farming a small

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[18] *See Swanson Developments, L.P.* (Rutherford County, Tax Year 2009, Final Decision & Order, September 15, 2011) at 3 ("[T]he predominant character of the tract supports further development, not farming, and the property in the aggregate does not, in our view, constitute a 'farm unit engaged in the production or growing of agricultural products.'") upholding *Swanson Developments L.P.* (Rutherford County, Tax Year 2009, Initial Decision & Order, January 20, 2010); *see also Sweetland Family Limited Partnership* (Putnam County, Tax Years 1999 & 2000, Final Decision & Order, September 30, 2001 at 2 (". . . the subject property cannot reasonably be considered a farm unit. Although hay is produced on the premises, we find the amount of production is minimal and incidental to the owner's primary interest and efforts with regard to subject property, i.e., holding the subject property for commercial development."); *Crescent Resources* (Williamson County, Tax Year 2007, Initial Decision & Order, April 14, 2008) at 4; and *Thomas H. Moffit, Jr.* (Knox County, Various Tax Years, Initial Decision & Order, June 27, 2014) at 10.

[19] * *See Roger Witherow, et al.* (Maury County, Tax Year 2006, Initial Decision & Order, May 17, 2007) at 3-4, wherein the administrative law judge affirmed the assessor's determination that 10.0 acres of a 64.28 acre farm no longer qualified for preferential assessment as agricultural land (". . . [O]nce [the 10.0 acres] began being utilized exclusively for excavation purposes it was no longer capable of being used for farming purposes. Indeed, the administrative judge finds that excavating dirt and rock for fill squarely constitutes a commercial use. . . [and] the 10.0 acres . . . was no longer part of a farm unit engaged in the production or growing of agricultural products. Hence . . . the assessor properly assessed rollback taxes and reclassified the 10.0 acres commercially.").

[20] T.C.A. § 67-5-1004(4).

[21] T.C.A. § 67-5-1005(a)(3).

[22] *Id*.

portion of the property and can prove at least a $1,500 income, the 100-acre tract is not a farm unit (see § 1) engaged in the growing of agricultural products or animals. Any farming use is incidental to the other primary activities of the property.[23] Here, the presumption is rebutted, even though a portion of the property is used for agricultural purposes and produces at least $1,500 of gross agricultural income per year.

§ 3. Two noncontiguous tracts—one at least 15 acres, the other 10—may qualify

For agricultural land, two noncontiguous tracts *within the same county*, including woodlands and wastelands, can qualify.[24] But one tract must contain at least 15 acres and the other tract must contain at least 10 acres.[25] Both tracts, however, must constitute a farm unit (see §1).[26] Also, the two noncontiguous tracts must be owned by the same person or persons. This does not apply to forest or open space lands.

Example A

John Smith owns a 100-acre tract and a 12-acre tract in Greenbelt County. Because both tracts are within the same county and John is the owner of both, these two tracts may qualify as agricultural land. (This assumes, however, that both tracts constitute a farm unit.)

Example B

John Smith owns a 100-acre tract in Greenbelt County and a 12-acre tract in Urban County. The 12-acre tract cannot qualify with the 100-acre tract because both tracts are not within the same county.

Example C

John Smith owns a 100-acre tract in Greenbelt County. John Smith and Jane Doe own a 12-acre tract in Greenbelt County. Because the ownership is not the same for the two tracts, the 12-acre tract cannot qualify. To qualify, the 12-acre tract would give Jane a property tax advantage that other owners of land with fewer than 15 acres cannot enjoy.

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[23] *See Crescent Resources* (Williamson County, Tax Year 2007, Initial Decision & Order, April 14, 2008) at 5 ("[T]he agricultural income presumption . . . constitutes a *rebuttable* presumption. The administrative judge finds that any presumption in favor of an 'agricultural land' classification due to agricultural income has been rebutted.").
[24] T.C.A. § 67-5-1004(1)(B). *See Joyce B. Wright* (Putnam County, Tax Year 1997, Initial Decision & Order, January 5, 1998) at 6 ("The administrative judge finds that parcels 58 [12.48 acres] and 74 [68.3 acres] constitute a farm unit satisfying the acreage requirements for non-contiguous parcels. The administrative judge finds that parcel 58.02 [3.5 acres] by itself cannot qualify as a non-contiguous 'farm unit' since it contains less than 10 acres.").
[25] *Id.*
[26] *Id.*

You cannot have three noncontiguous tracts with one tract having at least 15 acres and the other two tracts having at least 10—but fewer than 15—acres each.

> John Smith owns three noncontiguous tracts in Greenbelt County: a 50-acre tract, a 13-acre tract, and a 12-acre tract. Although all tracts are in the same county, only two tracts can qualify: either the 50 and 13-acre tracts or the 50 and 12-acre tracts. (This assumes, however, that both tracts constitute a farm unit.)

As discussed in § 1, the law does not define *farm unit*. But the word *unit* does connote being part of a whole or something that helps perform one particular function. Therefore, it must be determined whether both tracts are part of one farming operation.

> John Smith owns a 100-acre tract in Greenbelt County and a noncontiguous 12-acre tract in Greenbelt County. The 100-acre tract contains cows and horses. John uses the 12-acre tract to cut hay for the horses to eat. These two tracts are owned by the same person and used in one farming operation (i.e., both tracts constitute a farm unit). Therefore, these tracts will qualify as agricultural land.

§ 4. A home site on agricultural land

Land that meets the 15-acre minimum but has a home site on it can still qualify as agricultural.[27] The assessor will value the home site and generally up to one acre of land—sometimes more depending on how much land is necessary to support the residential structure—at market value. The remaining acreage will be classified and valued as agricultural. Sometimes a home site can be up to five acres. As long as the remaining acres are engaged in an agricultural use, the property should qualify.

§ 5. Farming the land

No clear standard, rule, or test exists to help determine how much land must be actively farmed for an entire parcel to be classified as agricultural.[28] For example, a 15-acre tract with a 1-acre home site will still qualify as agricultural land. The assumption is that the remaining 14 acres, or a substantial portion of them, are being actively farmed. But land should not be classified as agricultural under this example:

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[27] *See Bertha L. & Moreau P. Estes* (Williamson County, Tax Year 1991, Final Decision & Order, July 12, 1993) at 2 ("The per acre use value is used for all of a qualifying greenbelt property except that which is used as a home site.").

[28] *See Johnnie Wright, Jr.* (Putnam County, Tax year 1997, Initial Decision & Order, January 2, 1998) at 5 (". . . [S]ubject property consists of a 41 acre farm unit, 15 acres of which [constitute] woodlands and wastelands."); *see also Gill Enterprises* (Shelby County, Tax Years 2008-2011, Final Decision & Order, June 19, 2012) at 3 (". . . [W]e find that acreage of a contended agricultural tract need not normally be adjusted for access roads and drives [noting in a footnote that "woodlands and wastelands are not deducted" and ". . .the assessor may consider whether the portions actually in use for farming are sufficient to support the property as a farm unit . . ."]).

> John Smith wants to qualify 50 acres as agricultural. He states that only two acres will be actively farmed as the rest of the land is woodlands and wastelands and not suitable for any other type of farming. This land should not qualify as agricultural. The owner should seek another classification—such as forest—if the land meets those qualifications.

§ 6. The family-farm provision

The family-farm provision provides that land may qualify, or continue to qualify, as agricultural if it (1) has been farmed for at least 25 years by the owner or owner's parent or spouse, (2) is used as the owner's residence, *and* (3) is not used for a purpose inconsistent with an agricultural use.[29] In other words, the agricultural use can cease and the land will still qualify. But it is not a requirement for the land to have been previously classified as agricultural to meet the 25-year requirement. It only needs to have been farmed for at least 25 years.

[29] T.C.A. § 67-5-1004(1)(A)(ii).

Forest land

§ 7. The definition of *forest land*

For land to qualify as a forest, it must either (1) constitute a forest unit engaged in the growing of trees under a sound program of sustained yield management *or* (2) have fifteen acres or more of tree growth in such quantity and quality and so managed as to constitute a forest.[30] Although no minimum acreage is found in the first requirement, the assessor should consult the state forester to determine whether land under 15 acres qualifies as a forest.[31]

§ 8. A forest management plan is required

A forest management plan is required for land to qualify as a forest. Sometimes, a property owner may request that land qualify as a forest prior to having completed a forest management plan. Although the policy has been to qualify land as a forest before a plan is completed, the owner needs to submit it as soon as possible. If a plan is never submitted, the land should be disqualified. But the best practice is to require the plan at the time the owner applies.

If land is qualified as a forest and it is later discovered that a plan was never submitted or has expired, then the property owner needs to be notified. A reasonable time period (e.g., 30 days, 45 days, etc.) should be allowed for the owner either to renew the plan or submit a new one. Otherwise, the land will be disqualified.

§ 9. The denial of a forest land classification is appealed to the state forester

If an assessor denies an application for forest land, the denied owner *must appeal to the state forester*—appeal is not made to the State Board of Equalization.[32] The state forester's decision can be appealed to chancery court within 90 days after the decision is issued.[33]

§ 10. A home site on forest land

The same consideration for a home site on agricultural land also applies to forest land (see § 4).

[30] T.C.A. § 67-5-1004(3).
[31] T.C.A. § 67-5-1006(b)(2) & (c).
[32] T.C.A. § 67-5-1006(d)(1).
[33] T.C.A. § 67-5-1006(e)(1)–(2).

Open space land

§ 11. The definition of *open space land*

Open space land is defined as land containing at least three acres characterized principally by an open or a natural condition and whose preservation would tend to provide the public with one or more of the benefits found in T.C.A. § 67-5-1002[34]:

- The use, enjoyment, and economic value of surrounding residential, commercial, industrial, or public use lands.
- The conservation of natural resources, water, air, and wildlife.
- The planning and preservation of land in an open condition for the general welfare.
- A relief from the monotony of continued urban sprawl.
- An opportunity for the study and enjoyment of natural areas by urban and suburban residents who might not otherwise have access to such amenities.[35]

But for land to qualify as open space, the *planning commission*[36] for the county or municipality *must* designate the area for preservation as open space land.[37] Once the planning commission adopts an area, then land within that area may be classified as open space.[38] If the planning commission has not designated an area, then this classification is not available.

Although open space land also includes lands primarily devoted to recreational use,[39] it does not apply to golf courses.[40] In 1983, the Tennessee Attorney General wrote that golf courses are not in a "natural" condition and are too "carefully manicured and highly developed" to be considered "open" under the Act.[41] The Attorney General further wrote the following:

> Property that has undergone the extensive site improvements necessary for a golf course is no longer open or natural. It has been transformed to suit the needs of urban civilization, just as if homes and factories had been built on it. The [A]ct . . . is directed at the preservation of natural and undeveloped land, not the rendering of a tax benefit to golf clubs.[42]

[34] T.C.A. § 67-5-1004(7).
[35] T.C.A. § 67-5-1002(2)(A)–(E).
[36] T.C.A. § 67-5-1004(10) ("'Planning commission' means a commission created under § 13-3-101 or § 13-4-101.").
[37] T.C.A. § 67-5-1007(a)(1).
[38] T.C.A. § 67-5-1007(a)(2).
[39] T.C.A. § 67-5-1004(7).
[40] *See* Informal advisory opinion letter from William Leach, Jr., Tenn. Op. Atty. Gen. et al., to the honorable Loy L. Smith, State Representative (April 28, 1983) at 2-3; *see also Cherokee Country Club* (Knox County, Tax Year 2012, Initial Decision & Order, October 8, 2013) at 4.
[41] *See* Informal advisory opinion letter from William Leach, Jr., Tenn. Op. Atty. Gen. et al., to the honorable Loy L. Smith, State Representative (April 28, 1983) at 3.
[42] *Id*.

§ 12. A home site on open space land

The same consideration for a home site on agricultural land also applies to open space land (see § 4).

Open space easements

§ 13. The definition of an *open space easement*

An *open space easement* is defined as:

> A perpetual right in land of less than fee simple that: (A) Obligates the grantor and the grantor's heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land; (B) Is restricted to the area defined in the easement deed; *and* (C) Grants no right of physical access to the public, except as provided for in the easement.[43]

§ 14. Three types of open space easements that may qualify

Land encumbered by an open space easement may qualify for greenbelt under T.C.A. § 67-5-1009. But only three types of easements are provided for under the Act: (1) an easement that has been donated to the state[44]; (2) an easement for the benefit of a local government[45]; and (3) an easement for the benefit of a qualified conservation organization.[46] If an easement has been donated to the state, the Commissioner of Environment & Conservation is required to record the easement and notify the assessor.[47]

§ 15. An application must be filed for open space easements

An application must be filed with the assessor for land to be qualified and assessed as an open space easement (see § 28).[48]

§ 16. Assessing land encumbered by an open space easement

If an open space easement has been executed and recorded for the benefit of a local government, a qualified conservation organization, or the state, the property shall be valued on the basis of:

(1) Farm classification and value in its existing use . . . taking into consideration the limitation on future use as provided for in the easement; *and*
(2) Such classification and value . . . as if the easement did not exist; but taxes shall be assessed and paid only on the basis of farm classification and fair market value in its

[43] T.C.A. § 67-5-1004(6)(A)-(C) (emphasis added).
[44] T.C.A. § 11-15-107; *see also* T.C.A. § 67-5-1009.
[45] T.C.A. § 67-5-1009(a).
[46] *Id*.; *see also* T.C.A. § 67-5-1009(c)(1).
[47] T.C.A. § 11-15-107(c).
[48] T.C.A. § 67-5-1009(d); *see also* T.C.A. § 67-5-1007(b)(1).

> existing use, taking into consideration the limitation on future use as provided for in the easement.[49]

However, "[t]he value of the easement interest held by the public body shall be exempt from property taxation to the same extent as other public property."[50]

Land that qualifies as open space and contains at least 15 contiguous acres can be classified and assessed as an open space easement. But the easement must be conveyed and accepted, in writing, to a *qualified conservation organization*.[51]

§ 17. The definition of a *qualified conservation organization*

A *qualified conservation organization* is defined as "a nonprofit organization that is approved by the Tennessee heritage conservation trust fund board of trustees and meets the eligibility criteria established by the trustees for recipients of trust fund grants or loans...[It] also includes any department or agency of the United States government which acquires an easement pursuant to law for the purpose of restoring or conserving land for natural resources, water, air and wildlife."[52] An example of a qualified conservation organization is the Land Trust for Tennessee. Please contact the Tennessee Heritage Conservation Trust Fund Board at (615) 532-0109 for more information about other organizations that may have been approved.

§ 18. Rollback taxes are due when an open space easement is cancelled

If an open space easement for the benefit of a local government is cancelled, rollback taxes (see § 46) will be due for the previous 10 years.[53] The amount of rollback taxes will be based on the difference between the taxes actually paid and the taxes that would have been due if the property had been assessed at market value and classified as if the easement had not existed.[54]

§ 19. Rollback taxes for portions of land that are reserved for non-open space use

Portions of land that are reserved for future development, construction of improvements for private use, or any other non-open space use will be disqualified when those uses begin. Rollback taxes (see § 46) will be due plus an additional amount equal to 10% of the taxes saved.[55]

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[49] T.C.A. § 67-5-1009(a)(1)–(2) (emphasis added).
[50] T.C.A. § 11-15-105 (b)(1).
[51] T.C.A. § 67-5-1009(c)(1) (emphasis added).
[52] T.C.A. § 67-5-1009(c)(5).
[53] T.C.A. § 67-5-1009(b)(1)(D).
[54] *Id*.
[55] T.C.A. § 67-5-1009(c)(3).

§ 20. Conservation easements are different than open space easements

Conservation easements are separate and distinct from open space easements under the greenbelt law. Conservation easements are governed by the Conservation Easement Act of 1981 (the "Conservation Act").[56] Conservation easements are assessed "on the basis of the true cash value of the property . . . less such reduction in value as may result from the granting of the conservation easements."[57] "The value of the easement interest held by the public body or exempt organization . . . [is] exempt from property taxation to the same extent as other public property."[58] It is not necessary to file a greenbelt application to receive preferential assessment under the Conservation Act.[59] Property which qualifies for preferential assessment under the Conservation Act is not required to be appraised in the same manner as property receiving preferential assessment under the greenbelt law.[60]

§ 21. The effect of a conservation easement on greenbelt land

To determine whether a conservation easement would disqualify greenbelt land will require a reading of the conservation easement deed. For example:

> Currently, land in Greenbelt County is classified as agricultural. A conservation easement deed is recorded and states that farming is a permitted use. Because the conservation easement permits farming, the underlying use of the land has not changed. Therefore, the land would still qualify and be assessed as agricultural.
>
> But if the easement provides that any type of farming is prohibited, then the land would be disqualified. Here, the underlying use of the land has changed. The owner would have to seek a different classification, if possible or permitted. Also, the land will be disqualified and rollback taxes (see § 46) will be assessed.

If the easement's restrictions prohibit the land from being classified as agricultural, forest, or open space, then the land will be assessed as explained in Section 20.

It is possible for a portion of the land to qualify for preferential assessment under both the greenbelt law and Conservation Act or just under the latter program.[61]

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[56] T.C.A. §§ 66-9-301-309. *See also Sarah Patten Gwynn* (Marion & Blount Counties, Order Concerning Applicability of Greenbelt Law to Conservation Easement Valuation, Tax Year 2010, November 10, 2011).
[57] T.C.A. § 66-9-308(a)(1).
[58] T.C.A. § 66-9-308(a)(2).
[59] *See Sarah Patten Gwynn* (Marion County, Tax Year 2010, Agreed Order for Resolution of Appeal, August 13, 2013) at 1 ("[T]he owner of property on which a conservation easement is placed under the Conservation [Act] is not required to file an application with the . . . [a]ssessor under the [greenbelt law] in order to be entitled to a reduction in property valuation caused by the creation of such conservation easement, as such valuation is determined under the provisions of Tenn. Code Ann, § 66-9-308.")
[60] *Id.*
[61] *See Sarah Patten Gwynn* (Marion County, Tax Year 2010, Agreed Order for Resolution of Appeal, August 13, 2013) at 2, wherein the Assessment Appeals Commission summarized the agreed valuation of the property under appeal.

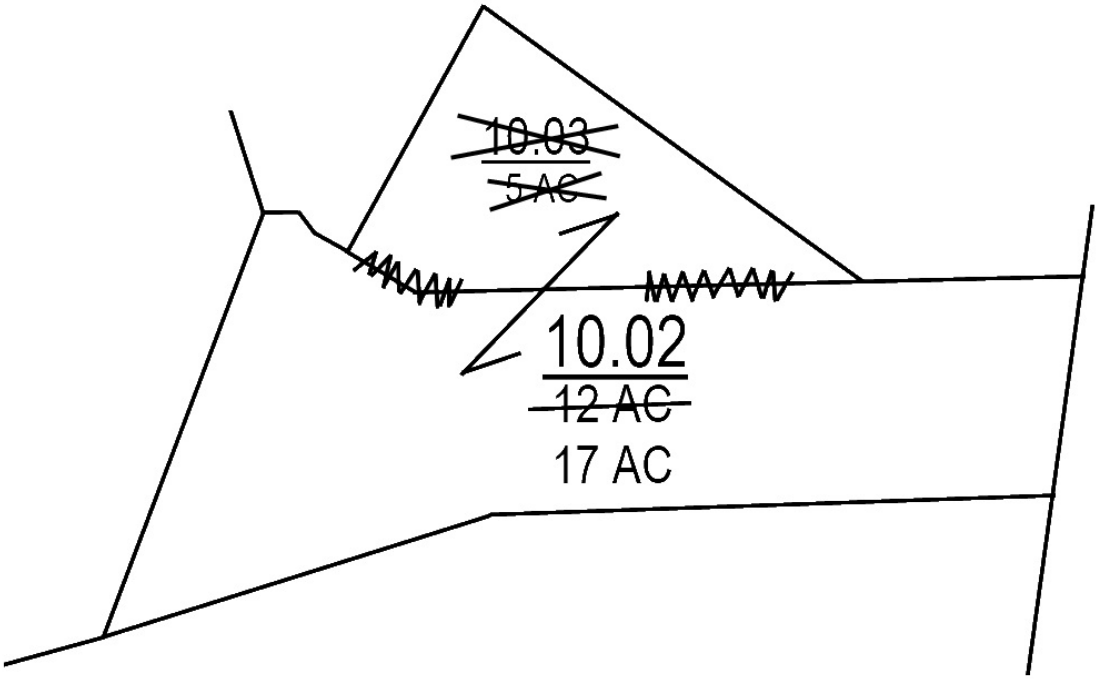
Combining parcels

§ 22. Contiguous parcels may be combined to create one tract

Sometimes owners do not have a single parcel that meets the minimum acreage requirement (e.g., 15 acres for agricultural). But if the owner has two or more contiguous parcels, those parcels may be combined to meet the acreage minimum. To be *contiguous* means the parcels must be "touching at a point or along a boundary; adjoining."[62] If they are not touching, then the parcels cannot be combined. Please review the following examples:

Example A

John Smith owns two parcels that are contiguous. One parcel has 12 acres; the other has 5. John is actively farming both parcels as a farm unit. He can combine these parcels to have one tract containing 17 acres. These 17 acres can now be classified as agricultural.



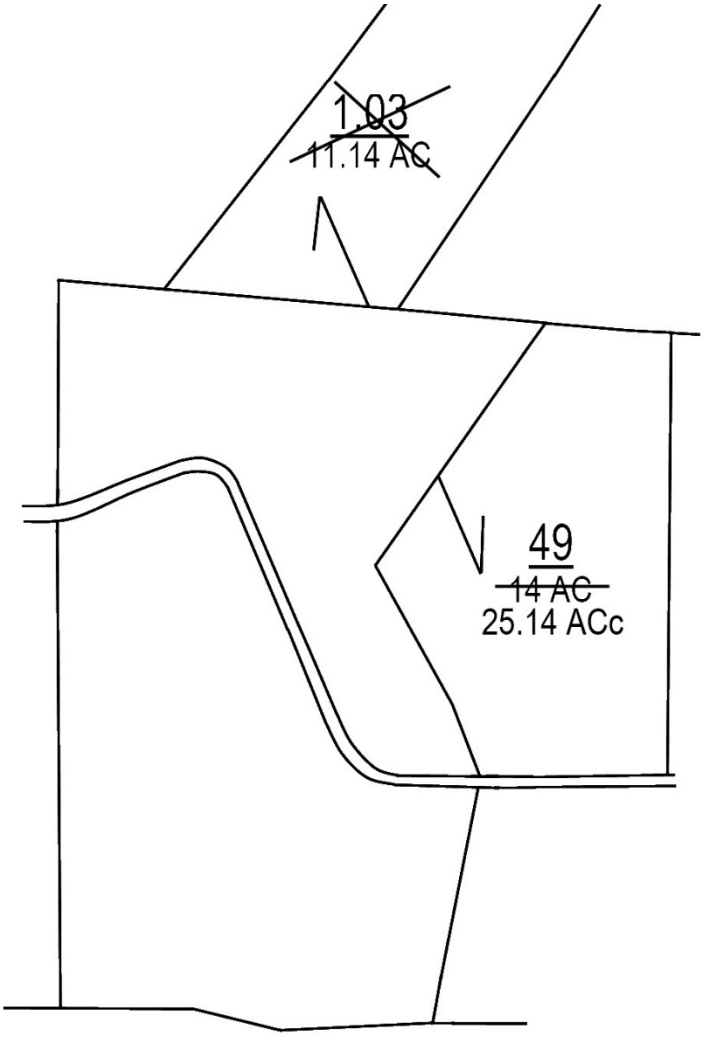
[62] CONTIGUOUS, Black's Law Dictionary (10th ed. 2014).

Example B

John Smith owns two parcels that are contiguous. One parcel has 50 acres; the other has 2. The 2-acre parcel cannot qualify because it's under the 15-acre minimum. Therefore, the 2 acres must be combined with the 50 acres to create a 52-acre parcel.

But parcels that are separated by another parcel cannot be combined nor can the parcels be *land hooked* (see § 23). For example:

John Smith owns two parcels: one is 14 acres and the other is approximately 11 acres. But the two parcels are separated by land owned by Jane Doe. In other words, the two parcels are not contiguous. These parcels cannot be combined or land hooked. The following mapping example is unacceptable:



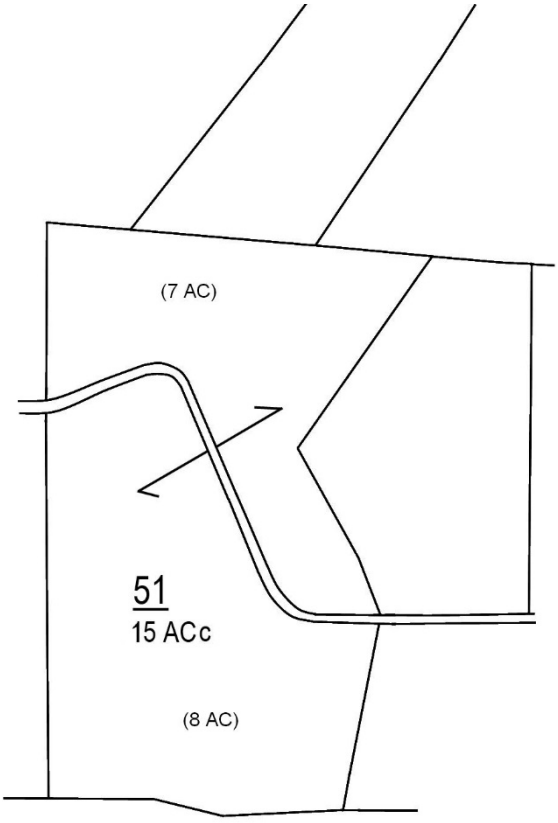
Parcels that are mapped this way must be removed from greenbelt.

When combining parcels, the assessor will end up with one parcel identification number. The discarded number cannot be used again.

§ 23. The use of land hooks to combine parcels

An owner may have parcels that are separated by a road, body of water, or public or private easement. Under these circumstances, the parcels can be *land hooked* in order to combine the parcels into one.[63] Once the parcels are land hooked, however, the assessor will end up with one parcel identification number. The discarded number cannot be used again. For example:

> John Smith owns two parcels that are separated by a public road. One parcel has seven acres; the other has eight. John is actively farming both parcels as a farm unit. He can combine these parcels by the use of a land hook in order for him to have one parcel that is 15 acres. These 15 acres can now be classified as agricultural as the following mapping example shows:



[63] *See Joyce B. Wright* (Putnam County, Tax Year 1997, Initial Decision & Order, January 5, 1998) at 6 (". . . [L]andhooks can be used to show . . . ownership of [contiguous] parcels separated by roads that do not prevent access from one parcel to the other. . . . [S]ubject parcels therefore qualify for preferential assessment as a 15.98 acre 'farm unit'. . . ")

§ 24. The ownership for all parcels to be combined must be the same

To combine parcels that are contiguous to each other or to land hook parcels, the ownership for each parcel must be the same. For example:

> John Smith owns a 10-acre parcel. John Smith and Jane Doe own a 10-acre parcel that is contiguous with John's 10 acres. Because the ownership between these two parcels is different, they cannot be combined. To combine both parcels would subject Jane to taxes on John's 10 acres—a parcel in which Jane does not have an ownership interest. Also, it would give Jane a benefit on only 10 acres when the minimum acreage for agricultural is 15. Neither parcel can qualify.

In order to combine parcels, they must (1) be contiguous, (2) be owned by the same person or persons, and (3) constitute a farm unit (see §1). To land hook parcels, they must (1) be separated by a road, body of water, or public or private easement, (2) be owned by the same person or persons, and (3) constitute a farm unit.

§ 25. A residential subdivision lot cannot be combined with contiguous greenbelt land

A residential subdivision lot cannot be combined with a greenbelt parcel that is contiguous to it. Property that is being, or has been, developed as a residential subdivision cannot qualify for greenbelt (see § 46.3; but see § 27).[64]

§ 26. Multiple residential subdivision lots generally cannot be combined

Vacant lots in a residential subdivision cannot be combined in order to meet the minimum acreage requirements under greenbelt. But if no part of the plat is being or has been developed and all of the lots are owned by one owner, then *all*—but not some—of the lots can be combined. But when any portion of the property is being developed or any lot is conveyed, then the entire property would be disqualified with rollback taxes being assessed (see § 46.3).[65] A single lot can qualify, however, if it meets the minimum acreage requirement and no restrictions or covenants prohibit the greenbelt use (see § 27).

§ 27. A single lot within a residential subdivision may qualify

A single lot within a subdivision or unrecorded plan of development may qualify under greenbelt if it meets the minimum acreage requirement, no restrictions or covenants prohibit a greenbelt use, and no part of the plat or unrecorded plan of development is being or has been

[64] T.C.A. § 67-5-1008(d)(1)(C).
[65] *Id.*

developed.[66] But multiple lots cannot be combined in order to meet the minimum acreage requirement (see § 26).

[66] Note T.C.A. §67-5-1008(d)(1)(C) also provides that ". . . where a recorded plat or an unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified[.]"

Property split by a county line

Property that is split by a county line can qualify for greenbelt. For example:

John Smith owns a 15-acre tract that is split by a county line. Ten acres are in Greenbelt County and five acres are in Urban County. John is actively farming this 15-acre tract. To qualify, an application will need to be filed in both counties. The deed references for both counties will need to be stated on the application. If any portion of the property is sold, one assessor will know to contact the other in case the property becomes too small to qualify.

Mapping property where only a portion is used for greenbelt

If only a portion of greenbelt land can qualify, then the qualified portion should be clearly identified by the applicant and mapped accordingly. This will help the assessor designate what portion is being assessed at use value and what portion is being assessed at market value. If only part of the land is later conveyed, then assessor will know if any rollback taxes (see § 46) are due.

Application requirements

§ 28. Filing an application

Any owner of land can file an application with the assessor to have land classified as agricultural, forest, or open space.[67] An *owner* is defined as "the person holding title to the land."[68] A *person* is defined as "any individual, partnership, corporation, organization, association, or other legal entity."[69] Application for classification of land as agricultural, forest, or open space land shall be made using a form prescribed by the state board of equalization, in consultation with the state forester for forest land classification.[70] It should set forth a description of the land, a general description of the use to which it is being put, and such other information as the assessor (or state forester) may require to aid the assessor in determining whether the land qualifies for classification as agricultural, forest, or open space land, including aerial photographs if available for forest land classification.[71]

The application does not require the signature of all the owners. But the person signing must be an owner. It is recommended, however, that the names of all owners appear on the application. This will help the assessor's office keep track of the acreage limit for each person. For artificial entities, an owner of the entity would need to sign and the names of all owners of the entity should appear on the application.

After the assessor approves the application, it must be filed with the register of deeds. The applicant must pay the recording fee. A copy of the recorded application needs to be kept with the assessor's file.

§ 29. The deadline to file a greenbelt application is March 1

The law provides that an application must be filed with the assessor by March 1.[72] This has been interpreted to mean on or before March 1. But if March 1 falls on a Saturday or Sunday, then an application filed on the following Monday will be deemed to have been timely filed. Additionally, applications sent through the U.S. mail are deemed to be timely filed if postmarked on or before the deadline date.[73]

Owners who are applying for the first time for land that did not previously qualify as agricultural, forest, or open space must apply on or before March 1. Land cannot qualify for the

[67] T.C.A. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1).
[68] T.C.A. § 67-5-1004(8).
[69] T.C.A. § 1004(9).
[70] T.C.A. § 67-5-1005(b), 1006(c), & 1007(b)(3).
[71] *Id*.
[72] T.C.A. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1).
[73] T.C.A. § 67-1-107(a)(1).

current tax year if the application is filed after March 1.[74] No appeal procedure is available for those who file late. March 1 is the deadline. The denial of a *timely* filed application, however, can be appealed to the county board of equalization.

§ 30. Filing an application after March 1 to continue previous greenbelt use

If an owner is applying to continue the previous classification—agricultural, forest, or open space—and fails to file by March 1, then the assessor can accept a late application.[75] But this late application must be filed within 30 days from the date the assessor sends notice (see Appendix "A") that the property has been disqualified.[76] A late application fee of $50.00—payable to the county trustee—must accompany the application.[77] If the 30 days have expired, however, the property will be disqualified and assessed at market value and rollback taxes will be assessed. Although the denial of a *timely* filed application can be appealed to the county board of equalization, no appeal procedure is technically available after the 30 days have expired. However, the State Board of Equalization has historically allowed taxpayers to bring procedural challenges when notice or the like is at issue.[78]

The State Board has no authority to waive deadlines for filing applications.[79]

§ 31. Calculating the 30-day period for late-filed applications

The 30-day period only applies to those owners who want to continue the previous greenbelt use but miss the March 1 deadline. If an owner misses the deadline, the assessor needs to send notice (see Appendix "A") that the property has been disqualified.[80] Once the notice is sent, the 30-day period begins. To compute the 30-day period, the day the notice is sent is excluded but the last day is included, unless the last day is a Saturday, a Sunday, or a legal holiday.[81] Please review the following examples:

Example A

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[74] *See Stephen M. & Susan Bass, et al.* (Maury County, Tax Year 2007, Initial Decision & Order, April 10, 2008) at 3 (". . . [S]ince the . . . greenbelt application was not filed until November 20, 2007, subject property cannot receive preferential assessment until tax year 2008.")

[75] T.C.A. § 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1).

[76] *Id.*

[77] *Id.*

[78] *See Bryson Alexander* (Sumner County, Tax Years 2012 – 2015, Initial Decision & Order, August 27, 2015) at 4 ("The Administrative Judge finds that the Assessor properly removed subject property from the Greenbelt program because the [T]axpayer failed to timely file an application and failed to file a late application within thirty (30) days of the notice of disqualification.")

[79] *See Clara T. Miller* (Robertson County, Tax Year 1999, Final Decision & Order, December 14, 2000) at 1-2 ("Unlike the deadline for appealing assessments to the State Board of Equalization, the greenbelt deadline also fails to provide a mechanism for the Board to consider whether reasonable cause existed to excuse the failure to meet the deadline.")

[80] T.C.A. § 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1). .

[81] *See* T.C.A. § 1-3-102.

A notice of disqualification is sent by the assessor on Monday, March 7, 2016. The first day to be counted is Tuesday, March 8. The last day counted (the thirtieth day) is Wednesday, April 6. This is the last day a property owner would have to file a late application with the $50.00 late fee to continue the previous classification.

Example B

A notice of disqualification is sent by the assessor on Thursday, March 3, 2016. The first day to be counted is Friday, March 4. The last day counted (the thirtieth day) is Saturday, April 2. Because the thirtieth day falls on a Saturday, however, the last day for a property owner to file a late application with the $50.00 late fee is Monday, April 4.

If the property owner fails to submit an application and pay the $50.00 late fee within 30 days of the assessor's notice, the property will be disqualified and rollback taxes will be assessed.[82] No appeal procedure is available after the 30 days expire with the limited exception discussed in section § 30.

§ 32. Notice of disqualification to be sent after March 1

When an owner misses the March 1 deadline to continue the previous greenbelt use, the law requires an assessor to send a notice of disqualification (see §§ 30 and 31).[83] But the law does not specify what language is needed in the notice. The assessment change notice required to be sent under T.C.A. § 67-5-508 would appear to be sufficient to indicate that the property's classification has changed. But it doesn't inform an owner that an application with a late-fee payment of $50.00 will be accepted if made within 30 days (see § 31). Therefore, it is suggested that the assessor send a notice similar to the one in Appendix "A."

§ 33. A life estate owner may file an application, but the remainderman cannot

A life estate owner has the present right to possess property, whereas a remainderman's interest does not vest until some future date.[84] Because of this present right, the life estate owner is legally responsible to pay the property taxes.[85] Therefore, a life estate owner is the only one who

[82] T.C.A. § 67-5-1008(d)(1)(D).
[83] T.C.A. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1).
[84] *Sherrill v. Bd. of Equalization*, 452 S.W.2d 857, 858 ("A remainder interest and a life interest in real estate are separate interests in that the holder of the vested remainder interest has the privilege of possession or enjoyment postponed to some future date, whereas the life tenant has the present right to possession or enjoyment.").
[85] *Id*. ("…[T]he life tenant is held to be under a duty to pay taxes which accrue during the period of his tenancy."); *see also Hoover v. State Bd. of Equalization*, 579 S.W.2d 192, 196 (Tenn. Ct. App. 1978) *cert. denied* April 2, 1979 ("…[T]he full value of the land is taxed in the hands of the life tenants, notwithstanding the fact that a life tenant has less than a full and unrestricted ownership of the land.").

can file an application for greenbelt—none of the remaindermen can apply.[86] Please review the following example:

> John Smith has a life estate on 50 acres and Jane Doe has the remainder. John has the present right to possess the property. Jane cannot legally possess the property until John's life estate is terminated. Furthermore, John is the one who is legally responsible to pay the property taxes. Therefore, the only person who can file an application is John. But, once John's life estate terminates, Jane will have to file an application in order to continue the previous use (see § 35).[87]

Also, there may be situations where property has been subdivided and then conveyed to different persons but the grantor retains a life estate. If a life estate owner has an interest in several contiguous tracts but each tract has a different remainderman, the property can still be combined (see §§ 22 and 24) and qualify for greenbelt. Please review the following examples:

Example A

> John Smith owns a 40-acre tract. For estate planning purposes, he subdivides the land into four 10-acre tracts. He then conveys a tract to each of his four children while retaining a life estate in each tract. Because of this, John is still the owner—for property taxation purposes—of the 40-acre tract. He can qualify these acres for greenbelt even though each tract has a different remainderman. But once John's life estate terminates, the land will no longer qualify as each tract will be under the 15-acre minimum. Rollback taxes will then be assessed.

Example B

> John Smith owns a 100-acre tract that is currently classified as agricultural. For estate-planning purposes, John subdivides the land into four 25-acre tracts. He then conveys a tract to each of his four children while retaining a life estate in each tract. No new application would need to be filed as John—the life-estate owner—is the only one with the present right to possess the 100-acre tract (*i.e.*, he is still the owner for property taxation purposes). But once John's life estate terminates, each child will then need to file an application for his or her own 25-acre tract because the ownership as of the assessment date will have changed.

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[86] *See Ethel Frazier Davis L/E; Lana Cheryll Jones*, (Claiborne County, Tax Years 2003, 2004 & 2005, Initial Decision & Order, June 11, 2007) at 2 ("It is doubtful that the mere transfer of a remainder interest in agricultural land would necessitate the filing of a new greenbelt application by the holder of such interest.").

[87] *See* T.C.A. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1) ("Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged.").

§ 34. Fees an applicant must pay

The only fee that the applicant is required to pay is the recording fee (payable to the register of deeds) so the application can be recorded with the register of deeds. Also, those owners who are continuing the previous classification and whose application is filed after the March 1 deadline must pay a $50.00 late fee to the county trustee.[88]

§ 35. Reapplication is required when ownership changes

Reapplication under greenbelt is not required unless the ownership as of the assessment date (January 1) changes.[89] In addition, Tennessee law states that "[i]t is the responsibility of the applicant to promptly notify the assessor *of any change in the use or ownership* of the property that might affect its eligibility…"[90] When ownership does change, a new application must be filed. If a new application is not filed, however, then the property will be disqualified and rollback taxes will be assessed (see § 46.4; but see §§ 30, 31, and 32).[91] Please review the following examples:

Example A

> As of January 1, 2009, John Smith owns 20 acres classified as agricultural. On May 1, 2009, John sells his 20 acres to Jane Doe. Jane must file an application with the assessor by March 1, 2010, because the ownership as of the assessment date (January 1, 2010) changed.

Example B

> As of January 1, 2009, John Smith and Jane Doe own 20 acres classified as agricultural. On May 1, 2009, John Smith and Jane Doe sell a one-third interest to William Bonny. They each now own a one-third interest in the land. A new application is required to be filed by March 1, 2010, with the assessor because the ownership as of the assessment date (January 1, 2010) changed.

Example C

> As of January 1, 2009, John Smith and Jane Doe own 20 acres classified as agricultural. On May 1, 2009, Jane sells her one-half interest to John. John is now the sole owner of the 20 acres. A new application is required to be filed with the

[88] T.C.A. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1).
[89] *Id*. In *Muriel Barnett* (Robertson County, Greenbelt Removal & Rollback Taxes, Initial Decision & Order, July 31, 2014) at 1-2, the administrative judge ruled that an ownership change did not occur simply because the taxpayer married and changed her name. In *Ethel Frazier Davis L/E Rem: Lana Cheryll Jones* (Claiborne County, Tax Years 2003, 2004, 2005, Initial Decision & Order, June 11, 2007) at 3, the administrative judge observed that ". . . the earlier quitclaim deed which created a tenancy by the entirety unmistakably *did* result in a change of ownership of the subject property." (Emphasis in original).
[90] T.C.A. § 67-5-1008(a) (emphasis added).
[91] T.C.A. § 67-5-1008(d)(1)(D).

assessor by March 1, 2010 because the ownership changed as of the assessment date (January 1, 2010).

Example D

> As of January 1, 2009, John Smith, Jane Doe, and William Bonny own 1,500 acres classified as agricultural. On May 1, 2009, John, Jane, and William create Farm Properties, LLC. Each has a one-third interest in the company. On June 1, 2009, John, Jane, and William convey the 1,500 acres to Farm Properties. A new application is required to be filed by March 1, 2010, with the assessor because the ownership as of the assessment date (January 1, 2010) changed. Farm Properties—an artificial entity—now owns the land.

Although some of the owners in the examples remain the same, a new application is required because, in every example, ownership changed. But a new application is *not* required under this example:

> As of January 1, 2009, John Smith owns 500 acres classified as agricultural. On April 1, 2009, John Smith conveys all 500 acres to Jane Doe and William Bonny. But John retains a life estate. A new application would *not* be required because John—the life-estate owner—is the only one who has a present right to possess the property. This means he is the only one who can apply for greenbelt. Therefore, a new application is *not* required so long as John Smith's life estate is valid. Once John's life estate terminates, however, a new application will be required from Jane and William, the remaindermen.

Also, a new application is *not* required when one spouse has died and the qualified property was owned by the husband and wife as *tenancy by the entirety* (see § 42). However, a new application is required when an individual quitclaims greenbelt property to himself and his spouse as tenants by the entirety because ownership changed.[92]

Moreover, when property is conveyed into a revocable trust, *it does not result in a change of ownership requiring a new application.* The reason for this is that a revocable trust can be revoked at any time by the person who created it. It is not until a revocable trust becomes irrevocable that a new application will be required. A revocable trust will become irrevocable upon the death of the grantor.

§ 36. Appealing the denial of a timely filed greenbelt application

Any owner of property may appeal the denial of a *timely* filed greenbelt application. Appeal must first be made to the county board of equalization and then to the State Board of Equalization. But there is no appeal procedure for first-time late-filed applications (see § 29).

[92] *Raymond F. Tapp* (Fayette County, Tax Years 1997-1999, Initial Decision & Order, November 21, 2001) at 2.

Late-filed applications from owners wanting to continue the previous classification must pay the $50.00 late fee within the 30-day period that is provided in the notice (see Appendix “A”) sent by the assessor (see §§ 30, 31, and 32). Failure to pay the $50.00 late fee by the end of the 30 days will cause the property to be disqualified and rollback taxes (see § 46) will be assessed. Except for the limited exception discussed in § 30, no appeal procedure exists for late-filed applications or after the 30-day period expires.

Acreage limitations

§ 37. An acreage limit exists for owners of greenbelt land

The law provides that no "person" may place more than 1,500 acres under greenbelt within any one taxing jurisdiction.[93] A *person* is defined as "any individual, partnership, corporation, organization, association, or other legal entity."[94] But, according to T.C.A. § 67-5-1003(3), the 1,500-acre limit does *not* apply to an agricultural classification that an owner obtained before July 1, 1984.[95] T.C.A. § 67-5-1008(g) *does* remove, however, any forest or open-space land in excess of the 1,500-acre limit obtained before July 1, 1984.[96]

As discussed in Section 20, conservation easements are separate and distinct from open-space easements under the greenbelt law. The 1,500 acre limit under the greenbelt law does not apply to acreage qualifying for preferential assessment under the Conservation Act.[97]

§ 38. Attributing acres to individuals

For individuals, the number of acres attributed to each will equal the percentage of the individual's ownership interest in the parcel.[98] Please review the following example:

> John Smith, Jane Doe, and William Bonny each own a one-third interest in a 1,500-acre tract. The acres would be attributed as follows: 500 acres to John; 500 acres to Jane; and 500 acres to William. But each can still qualify an additional 1,000 acres before reaching the 1,500-acre limit.

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[93] T.C.A. § 67-5-1003(3); *see also* T.C.A. § 67-5-1002(5): "The findings of subdivisions (1)–(4) must be tempered by the fact that in rural counties an overabundance of land held by a single landowner that is classified on the tax rolls by the provisions of this part could have an adverse effect upon the ad valorem tax base of the county, and thereby disrupt needed services provided by the county. To this end, a limit must be placed upon the number of acres that any one (1) owner within a tax jurisdiction can bring with the provisions of this part."

[94] T.C.A. § 67-5-1004(9). *See John J. White, III & Simon White* (Hardin County, Tax Year 1995, Initial Decision & Order, March 1, 1996) at 3-4 wherein it was held that two brothers who owned 3,553.5 acres of "forest land" as tenants in common did not constitute an "entity" and could each therefore qualify 1,500 acres (3,000 acres in total) for preferential assessment.

[95] T.C.A. § 67-5-1003(3).

[96] T.C.A. § 67-5-1008(g).

[97] *See Sarah Patten Gwynn* (Marion County, Tax Year 2010, Agreed Order for Resolution of Appeal, August 13, 2013) at 1-2 ("[A] property owner who establishes a conservation easement under the [Conservation] Act is not limited to a maximum of 1,500 acres as the amount of land that can be covered by an easement, or which would be included in the reduced valuation of the property for property tax determination under Tenn. Code Ann. § 66-9-308(a)(1).")

[98] T.C.A. § 67-5-1003(3).

§ 39. Acres are attributed to artificial entities and their owners

Artificial entities—such as partnerships, corporations, LLCs, trusts, or other legal entities—are also subject to the 1,500-acre limit.[99] For example:

> Farm Properties, Inc. owns a 1,500-acre tract that's currently qualified as agricultural. Because Farm Properties is at its 1,500-acre limit, it cannot qualify any more acres under greenbelt.

Persons having an ownership interest in an artificial entity are attributed a percentage of the total acreage that equals that person's percentage interest in the ownership or net earnings of the entity.[100] For example:

> John Smith, Jane Doe, and William Bonny each own a one-third interest in Farm Properties, Inc. If Farm Properties owns a 1,500-acre tract that's qualified as agricultural, then acreage would be attributed as follows: Farm Properties would have 1,500 acres; John would have 500 acres; Jane would have 500 acres; and William would have 500 acres. Farm Properties is at its 1,500-acre limit and, therefore, cannot qualify anymore acres. But John, Jane, and William can still qualify—individually—an additional 1,000 acres each.

§ 40. Aggregating artificial entities having 50% or more common ownership or control between them

Although the 1,500-acre limit applies to each artificial entity, two or more artificial entities having 50% or more common ownership or control between them are aggregated in determining the limit.[101] Please review the following examples:

Example A

> Farm Properties, Inc. owns a 1,500-acre tract that is classified as agricultural. John Smith, Jane Doe, and William Bonny each own a one-third interest in that entity. Horse Farms, Inc. owns a 1,500-acre tract that it wants to qualify as agricultural. The owners of this entity are John Smith, Jane Doe, and James Davis—each has a one-third interest. The acres for the land owned by Farm Properties and Horse Farms would be aggregated because there is more than a 50% common ownership between them—John and Jane are the common owners with more than 50% ownership. Therefore, Horse Farms cannot qualify any of its 1,500 acres as agricultural.

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[99] *Id*.
[100] *Id*.
[101] *Id*.

Example B

> Farm Properties, Inc. owns a 1,500-acre tract that is classified as agricultural. John Smith, Jane Doe, and William Bonny each own a one-third interest in that entity. Horse Farms, Inc. owns a 1,500-acre tract that it wants to qualify as agricultural. The owners of this entity are John Smith, Archibald Leach, and James Davis—each has a one-third interest. The acres for Farm Properties and Horse Farms would not be aggregated because there is not more than a 50% common ownership between them. John Smith is the only common owner. And he only has a one-third interest in each company. Therefore, the acreage for the artificial entities and the individuals would be attributed as follows: Farm Properties has 1,500 acres; Horse Farms has 1,500 acres; John has 1,000 acres; Jane has 500 acres; William has 500 acres; Archibald has 500 acres; and James has 500 acres.

§ 41. Land owned by a person who is at the 1,500-acre limit

Once an owner qualifies 1500 acres for preferential treatment, that owner cannot qualify any additional acreage for preferential treatment.[102] For example:

> John Smith and Jane Doe each own 1,000 acres that qualify as agricultural land. William Bonny owns 1,500 acres that qualify as agricultural land. Currently, John and Jane have 1,000 acres each and William has 1,500 acres. John, Jane, and William then acquire a 1,500-acre tract that they desire to qualify as agricultural land. Because William reached his 1,500-acre limit for preferential treatment, only 1,000 acres will qualify for greenbelt. In other words, William's portion of the property (i.e., the 500 acres that is attributed to him) is ineligible because he is at the 1,500-acre limit.

§ 42. A husband and wife owning property as tenancy by the entirety are limited to 1,500 acres

A husband and wife owning property as tenancy by the entirety are limited to a maximum of 1,500 acres because they own the property in its entirety.[103] This means that the husband and wife have the right of survivorship and are both deemed to have a 100% ownership interest rather than separate interests in the property.[104] "Neither [the husband or the wife] can separately, or without the assent of the other, dispose of or convey away any part."[105] In fact, upon the death of either the husband or wife,

> [t]he survivor . . . has no increase of estate or interest by the deceased having, before the entirety, been previously seised of the whole. The survivor, it is true, enjoys the

[102] *Id*.
[103] *Tindell v. Tindell*, 37 S.W. 1105, 1106 (Tenn. Ct. App. 1896).
[104] *Id*.
[105] *Id*.

> whole, but not because any new or further estate or interest becomes vested, but because of the original conveyance, and of the same estate and same quantity of estate as at the time the conveyance was perfected.[106]

Upon the death of a spouse, no new application is required to be filed because the property was held as tenancy by the entirety.

If the husband and wife own the property as *tenants in common*, however, then each can be attributed 1,500 acres. But the deed must explicitly state that the property is held as tenants in common. Otherwise, it is held as tenancy by the entirety.

[106] *Id.*

Rollback taxes

§ 43. Calculating the amount of rollback taxes

Rollback taxes are the amount of taxes saved over a certain period of time that the land qualified as agricultural, forest, or open space. They are calculated by the difference between the use value and market value assessments.[107] These taxes are not a penalty; they are a recapture of the amount of taxes saved. For agricultural and forest land, rollback taxes are calculated each year for the preceding three years.[108] For open space land, they are calculated each year for the preceding five years.[109] For example:

> As of January 1, 2008, a 15-acre tract has qualified as agricultural for the last 10 years. On November 1, 2008, the 15-acre tract no longer qualifies as agricultural. Rollback taxes are due for 2008, 2007, and 2006. Therefore, the amount of taxes saved by the difference between the use value and market value assessments for each of those years would be the total amount of rollback taxes.

T.C.A. § 67-5-1008(d)(2) provides how rollback taxes are to be calculated when the current year's tax rate is not yet known:

> When the tax rate for the most recent year of rollback taxes is not yet available, the assessor shall calculate the amount of taxes saved for the most recent year by using the last made assessment and rate fixed according to law, and the trustee shall accept . . . the amount determined to be owing.[110]

This situation arises when property is disqualified early in the tax year (e.g., February 1). The tax rate, and potentially the assessment, may not be known at that time. The amount of rollback taxes due for the current year would be the same amount that is calculated for the previous year (i.e., the last made assessment and rate fixed according to law).

§ 44. Rollback taxes become delinquent on March 1 following the year notice is sent

Rollback taxes are payable from the date written notice (see Appendix "B") is sent by the assessor and become delinquent on March 1 of the following year.[111] By statute, it is the assessor of property who must calculate rollback taxes.[112]

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[107] T.C.A. §§ 67-5-1004(12) & 1008(d)(1).
[108] T.C.A. § 67-5-1008(d)(1).
[109] *Id*.
[110] T.C.A. § 67-5-1008(d)(2).
[111] T.C.A. § 67-5-1008(d)(3).
[112] T.C.A. § 67-5-1008(d)(1).

§ 45. Circumstances that trigger rollback taxes

The law provides that rollback taxes are due if any of the following occur:

(1) [The] land ceases to qualify as agricultural land, forest land, or open space land as defined in § 67-5-1004;
(2) The owner . . . requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn;
(3) The land is covered by a duly recorded subdivision plat or an unrecorded plan of development and any portion is being developed; except that, where a recorded plat or unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified;
(4) An owner fails to file an application as required by [statute];
(5) The land exceeds the acreage limitations of § 67-5-1003(3); or
(6) The land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.[113]

§ 45.1. Rollback taxes are assessed when land no longer meets the definition of agricultural, forest, or open space

T.C.A. § 67-5-1004 provides for the definitions of agricultural, forest, and open space land (see §§ 1, 7, and 11). When land no longer meets these definitions, the land must be disqualified and rollback taxes assessed.[114] For example, agricultural land no longer engaged in farming or used as a residence under the family-farm provision should be assessed rollback taxes. However, it has been held that rollback taxes should not be assessed when a parcel no longer qualifies for preferential assessment due solely to a mistake of law.[115]

§ 45.2. Requests from owners to remove land from greenbelt must be in writing

If an owner is requesting property to be withdrawn, the request must be in writing—do *not* accept a verbal request. The writing should specify, at a minimum, the following: (1) the current owner; (2) the name of the person making the request; (3) the parcel identification number; and (4) a description of the property. If only a portion of the land is being withdrawn, a description must be provided outlining the portion to be removed.

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[113] T.C.A. § 67-5-1008(d)(1)(A)–(F).

[114] Tenn. Op. Atty. Gen. 86-15 (January 23, 1986) at 2.

[115] *See Cherokee Country Club, et al.* (Knox County, Initial Decision & Order, October 8, 2013) at 4-5 wherein the administrative judge upheld the assessor's determination that golf courses do not qualify for preferential assessment as open space land. Nonetheless, the administrative judge concluded that rollback taxes should not be assessed because the use of the property had not changed and the assessor was simply correcting "a not unreasonable mistake of law."

§ 45.3. Rollback taxes are due on land that is being developed

The recording of a subdivision plat or other plan of development does not automatically disqualify property from greenbelt. But if any portion contained within the plat or plan is being developed, then the entire property is disqualified.[116] If the plat or plan contains phases or sections, however, then only the phases or sections being developed is disqualified.[117]

It does not matter whether the plat or plan is recorded. It is the development of property in furtherance of the plat or plan that will trigger rollback taxes.

§ 45.4. Rollback taxes are assessed when an application is not filed to continue previous greenbelt use

If a new application is not filed by the appropriate deadline date—March 1 or 30 days after notice of disqualification is sent—or if there is a failure to pay the $50.00 late fee, then greenbelt land will be disqualified and rollback taxes will be assessed (see §§ 28, 30, 31, 32, 33, and 35).

§ 45.5. Land that exceeds the 1,500-acre limit is subject to rollback taxes

Rollback taxes are due for property that may currently qualify for greenbelt but will be disqualified because an owner exceeds the 1,500-acre limit. This can occur when the ownership interest changes for one or more owners. For example:

> John Doe, David Smith, and William Bonny own 3,000 acres classified as agricultural. Each owner is attributed as owning 1,000 acres. John and David also own 1,000 acres classified as agricultural and are attributed 500 acres each. Both are now at their 1,500-acre limit while William has only 1,000 acres attributed to him. Later, William conveys his one-third interest to John and David. Because of this conveyance, John and David are now each attributed 1,500 acres for this property. But they were already at their 1,500-acre limit. Therefore, 1,000 acres will be disqualified and rollback taxes will be due because John and David have now exceeded the 1,500-acre limit.

But no rollback taxes are due when greenbelt property passes to a lineal descendant who will, by virtue of receiving the land, exceed the 1,500-acre limit (see also § 54).[118] This assumes, however, that no other disqualifying events (e.g., the property is being developed as a residential subdivision) happen before the property has been assessed at market value for three years.[119] In other words, the property will be assessed at market value after the lineal descendant inherits the property. For example:

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[116] T.C.A. § 67-5-1008(d)(1)(C).
[117] *Id*.
[118] T.C.A. § 67-5-1008(h).
[119] *Id*.

> Mary Smith owns 1,500 acres that are currently classified as agricultural. Mary dies and the 1,500 acres pass to her son, John Smith. But John already has 1,500 acres under greenbelt (i.e., he is at the 1,500-acre limit). No rollback taxes will be due because John is a lineal descendant of Mary. But the property will be assessed at market value. Rollback taxes may be assessed, however, if a disqualifying event occurs before the property has been assessed at market value for three years.

§ 45.6. Land conveyed or transferred to a governmental entity

Rollback taxes are due when property is transferred or conveyed to a governmental entity.[120] Property acquired by the government takes on an exempt status and is considered a change in the property's use.[121] Therefore, even if the greenbelt use continues, rollback taxes are still assessed.[122]

But property purchased by the government through the State Lands Acquisition Fund (T.C.A. § 67-4-409(j)(5)) is not subject to rollback taxes.[123] T.C.A. § 11-14-406(b) specifically states that acquisition of greenbelt property under the U.A. Moore Wetlands Acquisition Act[124] "shall not constitute a change in the use of the property, and no rollback taxes shall become due solely as a result of [the] acquisition."[125]

Also, property purchased under the Tennessee Heritage Conservation Trust Fund Act of 2005 (T.C.A. §§ 11-7-101–110) is not subject to rollback taxes because property acquired under this Act does not constitute a change in the use of the property.[126]

§ 46. Determining personal liability for rollback taxes

Determining who is personally liable to pay rollback taxes will depend on the facts of each particular situation. Generally, whoever changes the use of the property is personally liable.[127] If a sale results in the land being disqualified, then the seller is liable for rollback taxes, *unless otherwise provided by written contract*[128] or statute.[129]

Unlike most other taxes, the personal liability for rollback taxes can be shifted to another person by written contract. So if a buyer declares in writing at the time of sale an intention to

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[120] T.C.A. § 67-5-1008(d)(1)(F).
[121] Tenn. Op. Atty. Gen. No. 10-71 (May 21, 2010) at 1-3.
[122] *Id*.
[123] T.C.A. § 11-14-406(b).
[124] T.C.A. §§ 11-14-401–407.
[125] T.C.A. § 11-14-406(b).
[126] T.C.A. § 11-7-109(b).
[127] *See* T.C.A. § 67-5-1008(d)(3) ("Rollback taxes . . . shall . . . be a personal responsibility of the current owner or seller of the land as provided in this part.").
[128] T.C.A. § 67-5-1008(f) (emphasis added). *See also* Tenn. Op. Atty. Gen. No. 10-71 (May 21, 2010) at 4; Richard Brown (Henry County, Initial Decision & Order, May 24, 2002) at 3.
[129] T.C.A. § 67-5-1008(e)(1).

continue the greenbelt use but fails to file an application within 90 days from the sale date, rollback taxes will become solely the responsibility of the buyer.[130] Also, if a deed states that the grantee agrees to assume the liability for rollback taxes, then the personal liability is shifted from the grantor (seller) to the grantee (buyer).[131]

In certain instances, the current owner of the land may be responsible for rollback taxes even though a previous owner initially changed the use. As explained in administrative rulings, greenbelt status does not simply cease by operation of law. Rather, a property continues to receive preferential assessment until the assessor changes the classification and assesses rollback taxes.[132]

§ 47. Rollback taxes are a first lien on the disqualified land

Rollback taxes are a first lien on the disqualified land and are collected in the same manner as other property taxes.[133] Therefore, even if the personal liability of the rollback taxes is with the seller, the disqualified land is still subject to any unpaid rollback taxes.

§ 48. Rollback taxes can only be appealed to the State Board of Equalization

The liability for rollback taxes can only be appealed directly to the State Board of Equalization.[134] An appeal must be made by March 1 of the year following the date the assessor sends notice (see Appendices "A" and "B") that the property has been disqualified and rollback taxes are due.[135] Appeals filed after the March 1 deadline will normally be dismissed.[136]

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[130] *Id*.

[131] *Id.*

[132] *See Bobby G. Runyan* (Hamilton County, Tax Year 2005, Final Decision & Order, October 31, 2007) at 2 ("[R]ollback liability also gives rise to a lien. . . . That the assessor may have been unaware of circumstances that might have triggered rollback liability earlier, or to a prior owner, does not relieve the current owner of liability occasioned by the current owner's change of use or other disqualification.") affirming *Bobby G. Runyan,* (Hamilton County, Tax Year 2005, Initial Decision & Order, August 24, 2006) at 3 wherein the administrative found "no legal authority" for the proposition that "greenbelt status simply ceases by operation of law." Thus, even though the prior owner may have changed the use, the property continued to receive preferential assessment and "Tennessee law specifically imposes liability on the current owner or seller of property when the property is disqualified from greenbelt."); *see also Ethel Frazier Davis L/E Rem: Lana Cheryll Jones* (Claiborne County, Tax Years 2003, 2004 & 2005, Initial Decision & Order, June 11, 2007) at 3 ("Thus, while new landowners must apply for continuation of a greenbelt classification in their own names, greenbelt status does not automatically expire if the required application is not received by the statutory deadline. Rather, such status terminates only upon the official entry of a different property classification on the tax roll.")

[133] T.C.A. § 67-5-1008(d)(3).

[134] *Id*.

[135] *Id*.

[136] *See Reedy, Scott M. et ux. Tracy Renee* (Perry County, Tax Year 2013, Initial Decision and Order Dismissing Appeal, August 11, 2014 at 3 ("Thus, his appeal to the State Board contesting the imposition of rollback taxes did not meet the statutory deadline.").

§ 49. Property values must be appealed each year, not after rollback taxes have been assessed

Property values that are used to calculate the amount of rollback taxes can only be appealed as specifically provided by law.[137] For example:

> John Smith owns property that has been classified as agricultural land since 1990. On October 1, 2009, the property is disqualified and rollback taxes are assessed. John would owe rollback taxes for tax years 2009, 2008, and 2007. But he wants to dispute the amount of rollback taxes because he believes the market value—as determined by the assessor—is excessive. In order for John to have challenged the market value in those tax years, he needed to have appealed to the county board for each of those tax years. Because John failed to appeal, those values are deemed final and conclusive.[138]

§ 50. The use value can only be appealed to the State Board of Equalization

A property's use value *cannot* be appealed to the county boards of equalization. To challenge the use value, a petition of at least 10 owners of greenbelt property, or a petition of any organization representing 10 or more owners of greenbelt property, must be filed with the State Board of Equalization.[139] The petition must be filed "on or before twenty (20) days after the date the division of property assessments publishes notice of the availability of the proposed use value schedule in a newspaper of general circulation within the county."[140] Once petitioned, the State Board will hold a hearing "to determine whether the capitalization rate has been properly determined by the division of property . . . assessments, whether the agricultural income estimates determined by the division of property . . . assessments are fair and reasonable, or if the farm land values have been determined in accordance with [§ 67-5-1008]."[141] Only the State Board of Equalization has authority to adjust use values.[142] Taxpayers cannot individually appeal the use value utilized to appraise their property.[143]

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[137] T.C.A. § 67-5-1008(d)(3).

[138] T.C.A. § 67-5-1401 ("If the taxpayer fails, neglects or refuses to appear before the county board of equalization prior to its final adjournment, the assessment as determined by the assessor shall be conclusive against the taxpayer, and such taxpayer shall be required to pay the taxes on such amount…"). Technically, John could appeal the market value for tax year 2009 to the State Board of Equalization, but the threshold issue would be jurisdiction. John would have to establish "reasonable cause" under T.C.A. § 67-5-1412(e) for not having appealed the 2009 appraisal to the county board of equalization.

[139] T.C.A. § 67-5-1008(c)(4).

[140] *Id.*

[141] *Id*. *See Johnson County Use Value Schedule* (Johnson County, Tax Year 1995, Initial Decision and Order, May 9, 1995) for an example of a ruling involving such a petition.

[142] *See James O.B. Wright, et al.* (Marion County, Tax Year 1998, Final Decision & Order, September 8, 2000) at 2 ("The Greenbelt Law does not allow any adjustments to the land schedules by either the local assessor or the local county boards of equalization.")

[143] *See Elsie Prater, Lucinda and Natalie Fletcher* (Knox County, Tax Year 2013, Initial Decision & Order, February 14, 2014) at 2 – 3 (". . . [T]he use values utilized to appraise subject acreage were developed pursuant to the statutory formula. . . [T]hose duly adopted values must be utilized by the assessor to value subject acreage. . . Since no . . . petition was filed, the proposed use values were adopted and used to value properties like the subject.")

§ 51. The notice for rollback taxes must be sent by the assessor

Written notice that greenbelt property has been disqualified and rollback taxes are due must be sent to the collecting official.[144] Simply having the rollback taxes added to the current tax bill is not sufficient. T.C.A. § 67-5-1008(d)(3) requires the notice for rollback taxes to include at least: (1) the amount of rollback taxes due; (2) the reason why the property was disqualified; and (3) the person the assessor finds to be personally liable for the rollback taxes (see Appendix "B").[145]

If the person the assessor finds personally liable is a seller, then a copy of the notice should also be sent to the buyer—or whomever the current owner is—as rollback taxes are a first lien on the land. Also, it's recommended that when property is disqualified from greenbelt, notice should be sent immediately.

§ 52. Assessing rollback taxes when only a portion of land is disqualified

When only a portion of land is disqualified, the assessor must still send a notice for rollback taxes (see Appendix "B"). The assessment of the parcel must be apportioned on the first tax roll prepared after the rollback taxes become payable.[146] This apportioned amount must be entered on the tax roll as a separately assessed parcel.[147]

§ 53. Determining the tax years that are subject to rollback taxes

The tax years subject to rollback taxes depend on whether the property qualifies for greenbelt as of January 1, the assessment date. Please review the following examples:

Example A

> Fifty acres have been classified as agricultural land since 1990. As of January 1, 2016, the property still qualifies. On April 1, 2016, the owner requests, in writing, for the property to be removed as agricultural land. The use of this property did not change until after January 1, 2016. Therefore, rollback taxes would be due for 2016, 2015, and 2014. The property will be assessed at market value beginning January 1, 2017.

Example B

> Fifty acres have been classified as agricultural land since 1990. On December 15, 2015, the owner requests, in writing, for the property to be removed from this classification. As of January 1, 2016, the property no longer qualifies. Therefore,

[144] T.C.A. § 67-5-1008(d)(3).
[145] *Id*.
[146] T.C.A. § 67-5-1008(d)(4)(A).
[147] *Id*.

rollback taxes would be due for 2015, 2014, and 2013. The property will be assessed at market value beginning January 1, 2016.

However, as noted in § 47, greenbelt status does not simply cease by operation of law. Thus, rollback taxes are not assessed until the assessor changes the classification. This can result in rollback taxes being assessed for the most recent tax years even though the disqualifying change in use occurred at a prior point in time.

§ 54. An assessment change notice must be sent when property is assessed at market value as of January 1

The first year the disqualified property is assessed at market value is when an assessment change notice must be sent.[148] Please review the following examples:

Example A

Fifty acres have been classified as agricultural land since 1990. As of January 1, 2016, the property still qualifies. On April 1, 2016, the owner requests, in writing, for the property to be removed as agricultural land. Because the use of the property did not change until after January 1, 2016, it still qualifies for greenbelt for tax year 2016. For tax year 2017, an assessment change notice must be sent because the value and classification as of January 1, 2017, changed.

Example B

Fifty acres have been classified as agricultural land since 1990. On December 15, 2015, the owner requests, in writing, for the property to be removed from this classification. On January 1, 2016, the property is no longer being used as agricultural land. Therefore, an assessment change notice must be sent for the 2016 tax year.

§ 55. Circumstances when rollback taxes are not assessed

Rollback taxes are not due if property passes to a *lineal descendant* and the property is disqualified solely because the 1,500-acre limit is exceeded.[149] A lineal descendant is a "blood relative in the direct line of descent. Children, grandchildren, and great-grandchildren are lineal descendants."[150] This is an exception to T.C.A. § 67-5-1008(d)(1)(E) which provides that rollback

[148] *See* T.C.A. § 67-5-508(a)(3) ("…the assessor or the assessor's deputy shall notify, or cause to be notified, each taxpayer of any change in the classification or assessed valuation of the taxpayer's property.").
[149] T.C.A. § 67-5-1008(h).
[150] DESCENDANT, Black's Law Dictionary (10th ed. 2014).

taxes are due if the "land exceeds the acreage limitations . . . ."[151] But rollback will be due if other disqualifying events occur before the property has been assessed at market value for three years.[152]

When a portion of property is taken by eminent domain and the taking results in the property being under the minimum acreage requirements, the remaining acres will continue to qualify for greenbelt.[153] The property will continue to qualify so "long as the landowner continues to own the . . . parcel and for as long as the landowner's lineal descendants collectively own at least 50% of the . . . parcel . . . ."[154]

Property purchased by the government through the State Land Acquisition Fund (T.C.A. § 67-4-409(j)(5)) is not subject to rollback taxes. This fund is used to acquire property under the U.A. Moore Wetlands Acquisition Act (T.C.A. § 11-14-406(b)). Once acquired, it does not constitute a change in use.[155] Therefore, no rollback taxes are due.

Rollback taxes are not due for property purchased under the Tennessee Heritage Conservation Trust Fund Act of 2005 (T.C.A. §§ 11-7-101–110). The purchase of property under this Act does not constitute a change in the use of the property.[156]

Also, rollback taxes are not assessed when property is disqualified as agricultural, forest, or open space land if the disqualification is due to a change in law or as a result of an assessor's correction of a prior error of law or fact.[157] However, the property owner will be liable for rollback taxes under these circumstances if the erroneous classification resulted from any fraud, deception, intentional misrepresentation, misstatement, or omission of any full statement by the property owner or the property owner's designee.[158] A property owner will not be relieved of liability for rollback taxes under this law if other disqualifying circumstances occur before the property has been assessed at market value for three years.[159]

§ 56. Rollback taxes that have been imposed in error may be voided

An assessor may void rollback taxes if it's determined that the taxes were imposed in error.[160] But there shall be *no* refund when the taxes have been collected at the request of a buyer or seller at the time of sale.[161] The statute does not provide a time limitation for when an assessor

[151] T.C.A. § 67-5-1008(d)(1)(E).
[152] T.C.A. § 67-5-1008(h).
[153] T.C.A. § 67-5-1008(e)(2).
[154] *Id*.
[155] T.C.A. § 11-14-406(b).
[156] T.C.A. § 11-7-109(b).
[157] TN LEGIS 685 (2016), 2016 Tennessee Laws Pub. Ch. 685 (H.B. 1685).
[158] *Id*.
[159] *Id*.
[160] T.C.A. § 67-5-1008(d)(3).
[161] *Id*.

can no longer void rollback taxes. But, if a delinquent tax lawsuit has been filed, then the assessor can no longer void the taxes.[162]

[162] *See*, *e.g.*, T.C.A. §§ 67-5-509(d), last sentence, ("Once a suit has been filed for the collection of delinquent taxes [under] § 67-5-2405, the assessment and levy for all county, municipal and other property tax purposes are deemed to be valid and are not subject to correction under this section.") and 67-5-903(e), eighth sentence ("Amendment of a personal property schedule shall not be permitted once suit has been filed to collect delinquent taxes related to the original assessment.").

Eminent domain or other involuntary proceedings

§ 57. The government is responsible for rollback taxes when there is a taking

When greenbelt land—or a portion of it—is taken by eminent domain or other involuntary proceeding, the agency or body doing the taking is responsible for the rollback taxes.[163] Land that is transferred and converted to an exempt or non-greenbelt use is considered to have been converted involuntarily if the transferee or an agent for the transferee (1) sought the transfer *and* (2) had power of eminent domain.[164] But no rollback taxes are due if land is acquired under the U.A. Moore Wetlands Acquisition Act[165] or the Tennessee Heritage Conservation Trust Fund Act of 2005 (see § 54).[166]

§ 58. Land that is too small to qualify because of a taking can still qualify

If the taking results in the property being too small to qualify, the property can still qualify so long as the landowner continues to own and use the remaining portion of the property and for so long as the landowner's lineal descendants collectively own at least 50% of the remaining portion (see § 54).[167] However, once those lineal descendants no longer own at least 50% of the remaining portion, rollback taxes will be due because the property will not meet the minimum acreage requirement (see § 1).

§ 59. No rollback taxes when greenbelt land is acquired by a lender in satisfaction of a debt

Rollback taxes are *not* to be assessed when property is acquired by a lender in satisfaction or partial satisfaction of a debt.[168] Rollback taxes will only be assessed against a lender if the property is used for a non-greenbelt purpose.[169] This also applies to property that is transferred to a bankruptcy trustee.[170] No application is required during the time the lender or trustee has the property. But when the property is sold, rollback taxes may be due under the following circumstances:

> (1) [The] land ceases to qualify as agricultural land, forest land, or open space land as defined in § 67-5-1004;

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[163] T.C.A. § 67-5-1008(e)(1).
[164] *Id*.
[165] T.C.A. § 11-14-406(b).
[166] T.C.A. § 11-7-109(b).
[167] T.C.A. § 67-5-1008(e)(2).
[168] T.C.A. § 67-5-1008(e)(3).
[169] *Id*.
[170] *Id*.

(2) The owner . . . requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn;
(3) The land is covered by a duly recorded subdivision plat or an unrecorded plan of development and any portion is being developed; except that, where a recorded plat or unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified;
(4) An owner fails to file an application as required by [law];
(5) The land exceeds the acreage limitations of § 67-5-1003(3); or
(6) The land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.[171]

[171] T.C.A. § 67-5-1008(d)(1)(A)–(F).

Appendix A
Notice of Disqualification Letter (Example)

Greenbelt County Assessor of Property
123 Main Street, Courthouse
Hometown, TN 37777
615-555-5555

4 April 2016

John Smith
123 Rural Road
Hometown, TN 37777

Re: Application for Greenbelt and Rollback Taxes

Dear Mr. Smith:

The property located at 123 Rural Road, Hometown, TN 37777 (Parcel ID# 011-001.01) was previously classified as *agricultural land* under the greenbelt program. To have continued this classification, an application was required to have been filed by March 1, 2016. As of the date of this letter, no application has been filed. Therefore, this property has been disqualified from this classification and will be assessed at market value for tax year 2016. Also, rollback taxes are now due in the amount of $1,000 and will become delinquent on March 1, 2017.

But the rollback taxes can be voided and the property can continue to be classified as agricultural land if you (1) file an application and (2) pay the statutory late fee of $50.00 (payable to the Greenbelt County Trustee) within 30 days of this letter. The last day to do this is May 4, 2016.

Please call us at 615-555-5555 if you have any questions.

Sincerely,

David R. Sealy

c: Jack R. Marley, Greenbelt County Trustee

Appendix B
Notice of Rollback Taxes Letter (Example)

Greenbelt County Assessor of Property
123 Main Street, Courthouse
Hometown, TN 37777
615-555-5555

4 April 2016

Jack R. Marley
Greenbelt County Trustee
123 Main Street
Hometown, TN 37777

Re: Rollback Taxes for 123 Rural Road, Hometown, TN 37777
Parcel ID# 011-001.01

Dear Mr. Marley:

It has been determined by our office that the property located at 123 Rural Road, Hometown, TN 37777 (Parcel ID# 011-001.01) no longer qualifies as agricultural land. The property is currently being developed as a residential subdivision. Therefore, rollback taxes are assessed to John Smith in the amount of $1,000.00.

These taxes are payable from the date of this notice and become delinquent on March 1, 2017. Also, the taxes are a first lien on the land and if not paid, can subject the property to a delinquent tax lawsuit.

The liability for these rollback taxes may be appealed to the State Board of Equalization by March 1, 2017.

Sincerely,

David K. Sealy

c: John Smith